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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/682,599	09/25/2001	Scott C. Harris	RANDOM-Span	5191
23844	7590	11/17/2004	EXAMINER	
SCOTT C HARRIS P O BOX 927649 SAN DIEGO, CA 92192			OSMAN, RAMY M	
			ART UNIT	PAPER NUMBER

2157

DATE MAILED: 11/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/682,599

Applicant(s)

HARRIS, SCOTT C.

Examiner

Ramy M Osman

Art Unit

2157

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 8/19/2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-10 and 12-16 is/are rejected.
- 7) ☒ Claim(s) 5, 11 and 17-19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Status of Claims

1. This communication is responsive to the amendment filed on August 19, 2004. Applicant amended claims 1,7,8,13 and 15, and added new claims 17-19. Claims 1-19 are pending.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. **Claims 1-4,6-10 and 12-16 are rejected under 35 U.S.C. 102(b) as being unpatentable over Humes (U.S. Patent No. 5,996,011) .**

4. In reference to claim 1, Humes teaches an article, comprising:

A method and a machine readable medium which stores machine executable instructions (claim 1), the instructions causing a computer to:

Receiving an electronic communication over a channel (column 1 lines 5-13);

Detect random information in said electronic communication that has been received over the channel (columns 2 lines 55-63 and column 3 lines 24-33);

Establish said electronic communication as being an undesired electronic communication based on said detect of said random information (column 3 lines 24-33 and column 5 lines 3-33).

5. In reference to claims 2-4, Humes teaches an article as in claim 1, wherein said random information includes a plurality of random characters; random words; specified words which include additional random information associated therewith (column 2 lines 30-67 and column 5 lines 38-50).

6. In reference to claim 6, Humes teaches an article as in claim 1, wherein said electronic communication is one of an e-mail or a web page (Abstract).

7. In reference to claim 7, Humes teaches an article as in claim 1, further comprising an instruction to filter said electronic communication based on said instructions to establish (column 3 lines 10-40).

8. In reference to claim 8, Humes teaches a method, comprising:

Receiving an electronic communication (column 1 lines 5-13);

Detect random information within said electronic communication (columns 2 lines 55-63 and column 3 lines 24-33);

Filtering said electronic communication, prior to reaching a user, responsive to said detecting (column 3 lines 10-50 and column 5 lines 20-43).

9. In reference to claim 9, Humes teaches a method as in claim 8, wherein said filtering comprises restricting said electronic communication from reaching said user, when said detecting detects said random information within said electronic communication (column 3 lines 10-40 and column 5 lines 1-20).

10. In reference to claim 10, Humes teaches an article as in claim 9, wherein said random information includes a plurality of random characters (column 2 lines 30-67 and column 5 lines 38-50).

Art Unit: 2157

11. In reference to claim 12, Humes teaches a method as in claim 8, further comprising defining rules which determine which electronic communications should be filtered, and detecting said electronic communications based on said rules (Summary and column 5 lines 20-45).

12. In reference to claim 13, Humes teaches an article, comprising:

A method and a machine readable medium which stores machine executable instructions (claim 1), the instructions causing a computer to:

Process electronic communications which have been received over a channel according to rules which define characteristics of said electronic communications which will be filtered prior to reaching the user (column 1 lines 5-13 and Summary);

Establishing said electronic communications as being ones which will be filtered when content of electronic communication matches said rules by a specified amount less than 100% (column 3 line 40 – column 4 line 25 and column 5 line 35 – column 6 line 45).

13. In reference to claim 14, Humes teaches an article as in claim 13, wherein said instructions to establish include instructions to determine a random content within said electronic communication in addition to a content defined by said rules (column 3 line 40 – column 4 line 25 and column 5 line 35 – column 6 line 45).

14. In reference to claims 15 and 16, Humes teaches an article as in claim 13, wherein said establishing establishes the communication as one to be filtered when the content matches by 80-90% percent or more (column 3 line 40 – column 4 line 25 and column 5 line 35 – column 6 line 45).

Allowable Subject Matter

15. Claims 5,11 and 17-19 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

16. The following is a statement of reasons for the indication of allowable subject matter: The below indicated limitations if combined, modified and written into each independent claim, would render the claims patentable over the cited art due to the novelty of the subject matter:.

- wherein said detect random characters comprises comparing a content of said electronic communication to a dictionary of words, and establishing parts within said electronic communication that are not within said dictionary as being random characters
- establishing the electronic communication as being a spam communication

17. The following claim language drafted by the examiner and considered to distinguish patentably over the art of record in this application, if incorporated into the independent claims, is presented to applicant for consideration:

“ Wherein the electronic communication is a spam communication, and wherein detecting comprises detecting spam by comparing a content of said electronic communication to a dictionary of words, and establishing parts within said electronic communication that are not within said dictionary as being spam”.

Response to Arguments

Art Unit: 2157

18. Applicant's arguments with respect to claims 1-19 have been considered but are moot in view of the new ground(s) of rejection.

19. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramy M Osman whose telephone number is (571) 272-4008. The examiner can normally be reached on M-F 9-5.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2157

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RMO

November 4, 2004


SALEH NAJJAR
PRIMARY EXAMINER